

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 03-0046P
Use Tax
Calendar Years 1999, 2000, and 2001

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ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer, a retail merchant and commercial printer, produces and sells marketing materials, envelopes, cards, and other types of printed materials.

At audit it was determined that the taxpayer purchased cleaning supplies such as towels, mops, mats, soap, and other miscellaneous items and failed to self assess use tax even though it had a prior Letter of Findings denying the same issue. Taxpayer also failed to pay tax on publications and computer hardware.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty assessed and states that it does not agree with the Department's definition of the "printing production process and taxpayer maintains that cleaning supplies are an integral part of the printing process. The cleaning and maintaining of printing equipment was clearly a taxable issue in Taxpayer's Letter of Findings Number 04-970542.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence

shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.”

The taxpayer failed to remit tax on an issue that was previously denied and has not provided reasonable cause to allow a penalty waiver.

FINDING

Taxpayer’s protest is denied.